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APPLICATION NO.	FILIN	G DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,294	10/712,294 11/13/2003		Dimitri T. Azar	00633-041001	8876
26161	7590	03/22/2006		EXAM	IINER
FISH & RICHARDSON PC				MATTHEWS, WILLIAM H	
P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				ART UNIT	PAPER NUMBER
				3738	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	10/712,294	AZAR, DIMITRI T.					
Office Action Summary	Examiner	Art Unit					
_	William H. Matthews (Howie)	3738					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period was a failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	l. lely filed the mailing date of this communication. O (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on 20 Ma	ay 2004.						
2a) ☐ This action is FINAL . 2b) ☒ This	action is non-final.						
3) Since this application is in condition for allowar	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	3 O.G. 213.					
Disposition of Claims		•					
4)⊠ Claim(s) <u>1-19</u> is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) <u>1-19</u> are subject to restriction and/or e	election requirement.						
Application Papers							
9) The specification is objected to by the Examine	r.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correct							
11)☐ The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.					
Priority under 35 U.S.C. § 119							
12) ☐ Acknowledgment is made of a claim for foreign a) ☐ All b) ☐ Some * c) ☐ None of:	priority under 35 U.S.C. § 119(a))-(d) or (f).					
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau							
* See the attached detailed Office action for a list	of the certified copies not receive	ed.					
Attachment(s) 1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)					
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 	Paper No(s)/Mail D	ate					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	5) Notice of Informal F 6) Other:	Patent Application (PTO-152)					

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Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-17, drawn to vision prostheses, classified in class 623, subclass

4.1+.

II. Claims 18-19, drawn to methods of using vision prostheses, classified in class 623, subclass 905+.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the products as claimed may be used in single implantation step procedures.
- 3. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
- 4. This application contains claims directed to the following patentably distinct species of vision prostheses:
 - a. Releasably attached wavefront component (p2:11-15).
 - b. Memory element (p2:16-18).
 - c. Deformable material (p2:19-20).

d. Rangefinder, actuator, and controller (p2:21-25).

- e. Actuator and controller (p2:26-29).
- 5. The species are independent or distinct because of sufficiently different structure.
- 6. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Matthews (Howie) whose telephone number is 571-272-4753. The examiner can normally be reached on Monday-Friday 10-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone

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273-8300.

number for the organization where this application or proceeding is assigned is 571-

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William H. Matthews (Howie)

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